

NOTICE OF ASSIGNMENT

This is to advise that, effective April 1, 1976,
12:01 a.m., the Financing Agreement described below has
been assigned to the Consolidated Rail Corporation by the
Trustees of: Penn Central Transportation Company
Six Penn Center Plaza
Philadelphia, PA 19104

The Financing Agreement is a Lease Agreement
, dated 6/8/72
bearing the ICC recordation number 6627
The payee's name and address is:

North American Car Corporation
222 South Riverside Plaza
Chicago, Illinois 60606

This Notice of Assignment has been placed in the
file of the ICC recordation number listed above and the entire
assignment is contained in the ICC recordation file stamped
in the margin of this assignment. A copy hereof will be
promptly mailed to the payee listed above for distribution
to the beneficial holder(s) of the Financing Agreement described
in this Notice of Assignment.

Consolidated Rail Corporation

THIS LEASE OF RAILROAD EQUIPMENT, dated June 8, 1972, between NORTH AMERICAN CAR CORPORATION, a corporation of the State of Delaware, (hereinafter called "Lessor"), and GEORGE P. BAKER, RICHARD C. BOND, JERVIS LANGDON, JR. and WILLARD WIRTZ, Trustees of the property of PENN CENTRAL TRANSPORTATION COMPANY, Debtor, (hereinafter called the "Railroad"), and the successors of said Trustees, or of any of them, (hereinafter called "Lessees"),

WITNESSETH:

WHEREAS, PULLMAN INCORPORATED (Pullman-Standard division), a corporation of the State of Delaware, (hereinafter called "Manufacturer"), has agreed to manufacture, sell and deliver and Lessor or a purchaser (herein the "Owner") designated by Lessor who will in turn lease the Cars to Lessor who in such case will be a sub-lessor hereunder has agreed to purchase and pay for 500 covered hopper cars, (hereinafter called the "Cars") which are identified in Exhibit A attached hereto; and

WHEREAS, the Cars are to be manufactured in accordance with the specifications approved by Lessees, and Lessor (such specifications being hereinafter called the "Specifications"); and

WHEREAS, the terms and provisions contained in this Lease constitute the only understanding, oral or written, between Lessor and Lessees relating to the Cars; and

WHEREAS, the aforesaid George P. Baker, Richard C. Bond, Jervis Langdon, Jr. and Willard Wirtz have been duly appointed Trustees of the property of the Railroad by an order of the United States District Court for the Eastern District of Pennsylvania (the Court) in a proceeding under Section 77 of the Bankruptcy Act entitled "In the Matter of Penn Central Transportation Company, Debtor, No. 70-347", and said appointment has been duly ratified by an order of the Interstate Commerce Commission, and said Trustees have duly qualified as such and are now in possession of and operating the property of the Railroad pursuant to the provisions and directions contained in orders of said Court; and

6627

RECORDATION NO. _____ Filed & Recorded

JUN 9 1972-11 AM

INTERSTATE COMMERCE COMMISSION

WHEREAS, by an order of said Court dated JUNE 2, 1972, the form and terms of this Lease were approved by said Court in substantially the present form hereof, and Lessees were duly authorized and directed to execute and deliver this Lease, and otherwise to make and carry out the covenants and agreements on their part herein contained; and

WHEREAS, Lessees represent that all acts and things necessary to make this Lease valid and binding upon Lessees have been done and performed;

NOW THEREFORE, in consideration of the premises and of the rentals to be paid and the covenants hereinafter mentioned to be kept and performed by Lessees, Lessor hereby leases the Cars to Lessees and Lessees hereby hire the Cars from the Lessor upon the following terms and conditions:

SECTION 1. DELIVERY AND ACCEPTANCE OF CARS. During the manufacture of each Car the Lessees will cause the materials and other components which are to be incorporated in, and the construction of, such Car to be inspected by their authorized representative at Manufacturer's Butler, Pennsylvania plant. Promptly after completion of manufacture thereof Lessor will require the Manufacturer to cause such Car to be tendered to Lessor and Lessees on behalf of Lessor at Lessees option either at Manufacturer's plant at Butler, Pennsylvania or if Lessee pays the cost of transportation at such other point as may be designated by Lessees. Upon such tender Lessees will forthwith cause such Car to be further inspected by the authorized representative referred to above and, if such Car complies fully with the Specifications and is in good order and ready for service, Lessees will cause such representative to execute and deliver to Lessor and to the Manufacturer a Certificate of Inspection and Acceptance, substantially in the form hereto attached as Exhibit B, whereupon such Car shall be deemed to have been delivered to and accepted by Lessees, and shall be subject thereafter to all the terms and conditions of this Lease.

In the event that less than all of the Cars are delivered and accepted under the terms of this Lease, then concurrently with the delivery and acceptance of the last Car so delivered and accepted, Lessees will cause to be executed and delivered to Lessor a supplement to this Lease, in substantially the form attached hereto as Exhibit C.

At all times during the continuance of this Lease title to the Cars shall be vested in Lessor or Owner to the exclusion of Lessees, and any rights of Lessees in respect of the Cars shall constitute a leasehold interest only.

The Cars are to be delivered by the Manufacturer to the Lessor on or before September 30, 1972 subject to rescheduling of shop space and delays due to strikes, differences with workmen, labor troubles, acts of God, Governmental acts and regulations, war or war conditions, riots or civil commotion, sabotage, fires, floods, or explosions or other accidents, or to delays of carriers or of subcontractors or in receipt of materials, or to delays occasioned by or arising in connection with the construction of other cars or products for Manufacturer's other customers, or to any other cause or causes (whether or not of the same general character as those herein specifically enumerated) beyond Manufacturer's reasonable control. This Lease shall not be effective as to any cars not delivered and accepted on or before September 30, 1972 (the cutoff date) unless and to the extent such delivery and acceptance is delayed for the reasons above stated. Lessees understand that Lessor may agree to allow Manufacturer to schedule construction of the Cars before or after orders received for cars from other customers before or after the date of this Lease, but such agreement will provide that Manufacturer shall schedule the Cars for construction so that under normal business conditions the Cars would be completed by September 30, 1972. Delays above mentioned occurring before or during such construction period will excuse delivery by such date and extend the cutoff date.

SECTION 2. TERM OF THE LEASE. The initial term of this Lease, (hereinafter called the "Initial Term"), as to each Car shall commence on the date of delivery to Lessees specified in the Certificate of Inspection and Acceptance for such Car and, subject to the provisions of Sections 9 and 11 hereof, shall terminate on the day, (hereinafter called the "Initial Term Terminal Day"), preceding the fifteenth anniversary of the Average Date of Acceptance, as hereinafter defined in this Section 2. The term of this Lease shall expire on the Initial Term Terminal Day unless Lessees exercise either or both of their rights and options to extend the term of this Lease as hereinafter provided in this Section 2.

Unless an Event of Default under Section 11 hereof shall have occurred and be continuing, Lessees shall have the right and option, by written notice given to Lessor not less than one hundred eighty (180) days prior to the Initial Term Terminal Day, to extend, subject to the provisions of Section 9 hereof, the term of this Lease with respect to the Cars then subject to this Lease for an additional period of five (5) years, (hereinafter called the "First Extended Term"), commencing on the fifteenth anniversary of the Average Date of Acceptance, as hereinafter defined in this Section 2, and ending on the day, (hereinafter called the "First Extended Term Terminal Day"), preceding the twentieth anniversary of the Average Date of Acceptance, as hereinafter defined in this Section 2.

Unless an Event of Default under Section 11 hereof shall have occurred and be continuing, Lessees shall have the right and option, by written notice given to Lessor not less than one hundred eighty (180) days prior to the First Extended Term Terminal Day, to further extend, subject to the provisions of Section 9 hereof, the term of this Lease with respect to the Cars then subject to this Lease for an additional period of five (5) years, (hereinafter called the "Second Extended Term"), commencing on the twentieth anniversary of the Average Date of Acceptance, as hereinafter defined in this Section 2, and ending on the day, (hereinafter called the "Second Extended Term Terminal Day"), preceding the twenty-fifth anniversary of the Average Date of Acceptance, as hereinafter defined in this Section 2.

In the event that Lessees exercise either or both of such rights and options to extend the term of this Lease, the provisions of Sections 7, 8, 9, 10, 11 and 15 hereof shall be applicable during the Initial Term and such extended term of this Lease.

From and after the date of execution hereof until the expiration or termination of the Initial Term or any extension thereof, as to any Car as set forth in this Section, this Lease shall not be subject to termination by Lessor except pursuant to Section 11 hereof upon the occurrence of an Event of Default, or by Lessees except pursuant to Section 9 hereof.

For the purposes of this Lease, the "Average Date of Acceptance" shall be the first day of the calendar month next succeeding a date determined as follows: the number of Cars accepted by Lessees on each date of acceptance on or prior to the cutoff date as extended shall in each case be multiplied by the number of days elapsed subsequent to the date of the acceptance of the first Car accepted; the products so obtained shall be added together and divided by the total number of Cars accepted on or prior to the last date on or prior to the cutoff date as extended on which any of the Cars were accepted; and the quotient so obtained (rounded out to the nearest whole number) will be the number of days elapsed subsequent to the date of the acceptance of the first Car to and including the date which is the Average Date of Acceptance; provided, however, that the Average Date of Acceptance may be such other date as shall be agreed upon in writing by Lessor and Lessees.

SECTION 3. RENTALS. Lessess agree to pay to Lessor, in cash, for the Initial Term of this Lease rental for each of the Cars subject to this Lease at the monthly rate specified for such type of Car on Exhibit A hereof. Such rental shall begin to accrue on the date on which such Car is delivered to and accepted by Lessees hereunder and continuing during the period ending on the earlier of (i) the Initial Term Terminal Day or (ii) the date, if any, on which this Lease shall terminate with respect to such Car pursuant to Section 9 or Section 11 hereof.

In the event that Lessees exercise their first right and option to extend the term of this Lease, Lessees agree to pay to Lessor, in cash, during the First Extended Term rental for each of the Cars then subject to this Lease equal to the Fair Rental Value, as hereinafter defined in this Section 3, beginning on the fifteenth anniversary of the Average Date of Acceptance and ending on the earlier of (i) the First Extended Term Terminal Day or (ii) the date, if any, on which this Lease shall terminate with respect to such Car pursuant to Section 9 or Section 11 hereof.

In the event that Lessees exercise their second right and option to further extend the term of this Lease, Lessees agree to pay to Lessor, in cash, during the Second Extended Term rental for each of the Cars then subject to this Lease equal to the Fair Rental Value, as hereinafter defined in this Section 3, of such Car on the twentieth anniversary of the Average Date of Acceptance beginning on such twentieth anniversary and ending on the earlier of (i) the Second Extended Term Terminal Day or (ii) the date, if any, on which this Lease shall terminate with respect to such Car pursuant to Section 9 or Section 11 hereof.

If on or before two months prior to the expiration of the Initial Term or First Extended Term of this Lease, Lessor and Lessees are unable to agree upon a determination of the Fair Rental Value of such Cars, the Fair Rental Value shall be determined by an independent appraiser mutually agreed upon by Lessor and Lessees, or failing such agreement, a panel of three independent appraisers, one of whom shall be selected by Lessor, the second by Lessees and the third designated by the first two so selected. The appraiser or appraisers shall be instructed to make such determination within a period of thirty days following appointment and shall promptly communicate such determination in writing to Lessor and Lessees. The determination so made shall be conclusively binding upon both Lessor and Lessees. The expenses and fees of the appraiser or appraisers shall be borne by Lessees.

Fair Rental Value shall mean at any time for the determination thereof an amount determined on the basis of, and equal to, the value which would obtain in any arm's-length transaction between an informed and willing lessee-user (other than a lessee-user currently in possession) and an informed and willing lessor under no compulsion to lease and, in such determination, costs of removal from the location of current use shall not be a deduction from such value.

Lessees agree to pay such rental to Lessor as follows: For the calendar month during which a Car is delivered and accepted a daily pro rata rental rate for such Car will be payable from the date of acceptance through the last day of that month on or before the 10th day of the following month and the rental for each succeeding month will be payable on the first business day of the calendar month next succeeding the calendar month in which the rental accrued.

Lessees will pay, to the extent legally enforceable, interest at the rate of 10% per annum upon rentals remaining unpaid after the same shall have become due and payable under any of the provisions of this Lease.

All payments to be made to Lessor shall be made to the office of Lessor at 77 South Wacker Drive, Chicago, Illinois, 60606, or at such other place or places as shall be directed in writing by Lessor.

SECTION 4. COVENANTS, REPRESENTATIONS AND WARRANTIES.

(a) Lessor represents and warrants that at the time a Car becomes subject to this Lease, Lessor will lawfully have the right to Lease such Car hereunder and that such Car will be free and clear of all liens and encumbrances of any nature whatsoever except only the rights of Lessees hereunder and of the holder of any chattel mortgage or conditional sale agreement or of the trustee of an equipment trust or of the holder of any other lien created heretofore or hereafter by the Manufacturer or the Lessor on such Cars and except for liens for taxes, assessments or governmental charges or levies not yet due and delinquent or not yet subject to penalty for non-payment, or undetermined or inchoate materialmen's mechanics', workmen's, repairmen's, employees' or other like

liens arising in the ordinary course of business and not delinquent (such liens, together with the leasehold and Vendor's interest described immediately hereafter, being herein called "Permitted Liens"). Lessor has entered a lease transaction whereby Lessor leases the Cars from the Owner, which Owner is purchasing the Cars under a Conditional Sales Contract from a Vendor (herein "Vendor"). The interest of such Owner and Vendor shall constitute a "Permitted Lien". Lessor agrees to pay or hold the Lessees harmless from any such Permitted Liens. THE FOREGOING WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES BY LESSOR, WHETHER WRITTEN, ORAL OR IMPLIED INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY OR FITNESS OF ANY KIND; THE QUIET ENJOYMENT OF THE CARS OR ANY OTHER MATTER WHATSOEVER. ALL SUCH RISKS AS BETWEEN THE LESSOR AND THE LESSEES ARE TO BE BORNE BY THE LESSEES. PROVIDED, HOWEVER, IN THE EVENT THE POSSESSION OF A CAR IS TAKEN FROM LESSEE BY A HOLDER OF A PERMITTED LIEN OR A PERSON CLAIMING THROUGH LESSOR, AS TO SUCH CAR THIS LEASE SHALL TERMINATE AS OF THE DATE OF SUCH TAKING. The Lessor hereby appoints and constitutes the Lessees its agent and attorney-in-fact during the term of this Lease to assert and enforce, from time to time in the name and for the account of the Lessor and the Lessees, as their interests may appear, but in all cases at the sole cost and expense of the Lessees, whatever claims and rights Lessor may have against any manufacturers or contractors in respect of the Cars.

(b) Lessees represent and warrant that:

(i) Lessees, George P. Baker, Richard C. Bond, Jervis Langdon, Jr. and Willard Wirtz, have been duly appointed as Trustees of the Property of the Railroad by an order of the United States District Court for the Eastern District of Pennsylvania; the appointment of said Trustees has been duly ratified by an order of the Interstate Commerce Commission; and said Trustees are duly vested with the title to the properties of the Railroad and have the power and authority to carry on its business.

(ii) The execution and delivery of this Lease by Lessees and their assumption and undertaking of the obligations, duties and liabilities hereof have been duly authorized by an order of said Court; and this Lease is legal, valid, binding and enforceable against Lessees in accordance with its terms.

(iii) The rights of Lessor as herein set forth and the title of Lessor to the Cars are free and clear of the lien, charge or security interest created by any mortgage, security agreement or other instrument binding upon the Railroad or Lessees.

(iv) Except for the authorization by the United States District Court for the Eastern District of Pennsylvania of the execution and delivery of this Lease by the Lessees, no governmental authorizations, approvals or exemptions are required for the execution and delivery of this Lease or for the validity and enforceability hereof or for the leasing of the Cars hereunder, for the rentals and for the other terms and conditions herein provided; or, if any such authorizations are required, they have been obtained and, if any such authorization shall hereinafter be required, they will be promptly obtained.

(v) No litigation or administrative proceedings are pending or, to the knowledge of Lessees, are threatened against Lessees, the adverse determination of which would affect the validity of this Lease or the rights of Lessor hereunder.

(vi) Obligations to make rental and other payments under this Lease will constitute expenses of administration of Lessees, payable on a parity with other equipment obligations theretofore or thereafter assumed or incurred by Lessees; and, upon occurrence of an Event of Default under this Lease, any claim for damages will constitute an expense of administration.

SECTION 5. OPINIONS OF COUNSEL. Concurrently with the delivery of Certificates of Inspection and Acceptance hereunder, Lessees will deliver to Lessor an opinion of Robert W. Blanchette, Esq., Counsel for Lessees, or an attorney designated by him satisfactory to Lessor, to the effect that (i) Lessees, George P. Baker, Richard C. Bond, Jervis Langdon, Jr. and Willard Wirtz (or any successor or additional Trustees), have been duly appointed as Trustees of the property of the Railroad by an order of the United States District Court for the Eastern District of Pennsylvania; the appointment of said Trustees has been duly ratified by an order of the Interstate Commerce Commission; and said Trustees are duly vested with title to the properties of the Railroad and have the power and authority to carry on its business; (ii) the execution and delivery of this Lease by Lessees and their assumption and undertaking of the obligations, duties and liabilities hereof have been duly authorized by an order of said Court; and this Lease is legal, valid, binding and enforceable against Lessees in accordance with its terms; (iii) the rights of Lessor as herein set forth and the title of Lessor to the Cars are free and clear of the lien of any mortgage, security agreement or other instrument binding upon the Railroad or Lessees; (iv) obligations to make

rental and other payments under this Lease will constitute expenses of administration of Lessees, payable on a parity with other equipment obligations theretofore or thereafter assumed or incurred by Lessees; and, upon occurrence of any Event of Default under this Lease, any claim for damages will constitute an expense of administration; (v) this Lease has been filed and recorded in such public offices as are necessary for the full protection of the rights of Lessor in the United States of America and in Canada; and (vi) no approval of the Interstate Commerce Commission or any other governmental authority (except the Court in the proceedings for the reorganization of the Railroad) is necessary for the execution and delivery of this Lease, or if any such approval is necessary (specifying the same), that it has been obtained. Counsel for Lessees or attorneys designated by him to deliver such opinion to Lessor may rely upon an opinion of Canadian counsel.

SECTION 6. OWNERSHIP IDENTIFICATION OF CARS: NUMBERING.

The Lessor (or if such is the case, the Owner) as between the Lessor and the Lessees shall and hereby does retain full legal title to the Cars notwithstanding the delivery thereof to and the possession and use thereof by the Lessees. Upon or before the delivery to Lessees of each of the Cars, Manufacturer has agreed to cause to be plainly, distinctly, permanently and conspicuously placed or fastened upon each side of such Car a legend bearing the following words in letters not less than one inch in height:

NORTH AMERICAN CAR CORPORATION, CHICAGO, ILLINOIS
SUB LESSOR
FIRST WESTERN BANK AND TRUST COMPANY
AS AGENT, SAN FRANCISCO, CALIFORNIA
SECURITY OWNER

and such other markings as may be provided in Section 13 hereof, and with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the title of Lessor or Owner to such Cars, its rights under this Lease and the rights of any assignee of the Lessor. In case, during the continuance of this Lease, any such legend shall at any time be painted over or otherwise made inconspicuous, removed, defaced or destroyed on any Car, Lessees shall immediately cause the same to be restored or replaced. Lessees will not allow the name of any person, association or corporation to be placed on any of the Cars as a designation which might be interpreted as indicating a claim of ownership thereof by any person, association or corporation other than Lessor or its assignee; but the Cars may be lettered with the names or initials or other insignia customarily used by Lessees on equipment of the same or a similar type for convenience of identification of the rights to use and operate the Cars under this Lease.

On or prior to the time of delivery of each Car to Lessees, Manufacturer has agreed to cause to be placed on each side of such Car the identifying Lessee's assigned reporting marks and Road Numbers as provided in Exhibit A. Lessee shall inform Lessor in writing immediately in the event of any change of reporting marks. At all times thereafter, during the continuance of this Lease, Lessees will cause each Car to bear the numbers and reporting marks so assigned to it, and Lessees will not change or permit to be changed the numbers of any Car except in accordance with a statement of new numbers to be substituted therefor which previously shall have been filed with Lessor by the Lessees and filed, recorded or deposited in all public offices where this Lease will have been filed, recorded or deposited. Except as above provided, the Lessees will not allow the name of any person, association or corporation to be placed on the Cars as a designation that might be interpreted as a claim of ownership; provided, however, the Lessees may cause the Equipment to be lettered with the names, initials or other insignia customarily used by the Lessees on railroad equipment used by Lessees of the same or similar type for convenience of identification.

SECTION 7. TAXES. Lessees agree that, during the continuance of this Lease, in addition to the rentals herein provided, Lessees will promptly pay all taxes, assessments and other governmental charges levied or assessed upon or in respect of the Cars, or any thereof, or upon the use or operation thereof or the Lessees earnings arising therefrom, if and to the extent that any such taxes, assessments or other governmental charges may give rise to any lien upon the Cars or may become a claim entitled to priority over any of the rights of Lessor or Owner in and to the Cars, and as additional rental will promptly pay or reimburse Lessor for all taxes, assessments and other governmental charge levied or assessed against Owner or any successor in title of Owner solely on account of ownership of the Cars, or any thereof, or on account of the use or operation thereof or on account of the earnings arising therefrom (exclusive, however, of any tax in the nature of an income tax on the net income from the rentals herein) including without limitation all licenses and registration fees, assessments and any sales, use or similar taxes payable on account of the sale or delivery of the Cars by the Manufacturer to Owner or the leasing of the Cars hereunder; but Lessees shall not be required to pay the same so long as they shall in good faith and by appropriate legal or administrative proceedings contest the validity or amount thereof unless thereby, in the judgment of Lessor, the rights or interest of Lessor will be materially endangered, nor shall Lessees be

required to make any tax payment which is deferred by order of a court having jurisdiction, provided that such deferment shall not subject the title and interest of Owner or Lessor in and to the Cars to any lien or encumbrance. In the event any tax reports are required to be made on the basis of individual Cars, Lessees will either make such reports in such manner as to show the ownership of such Cars by Owner or any successor in title of Owner or will notify Lessor of such requirement and will make such report in such manner as shall be satisfactory to Lessor. In addition to the above taxes, Lessees shall pay any penalties or interest thereon imposed by any state, federal or local government upon any Car whether or not the same shall be assessed against or in the name of the Owner or Lessor, and the Lessees shall reimburse the Lessor for any damages or expenses resulting from such failure to pay or discharge any items to be paid under this Section. Lessee shall be obligated to pay only such taxes, penalties or interest, as are levied or assessed during the term of this Lease.

SECTION 7A. INVESTMENT TAX CREDIT INDEMNIFICATION

(a) It is the intent of the parties to this Lease that the Owner shall be considered to be the owner and original user of all the Cars which are subject to this Lease for all Federal income tax purposes, that the Owner shall be entitled to and shall claim an investment tax credit of seven percent of the Owner's qualified investment in each Car (as explained below) in accordance with the provisions of Section 38 and 46 through 50 of the Internal Revenue Code of 1954, as amended, ("Code"), that the Owner shall be entitled to claim depreciation with respect to each Car by any of the depreciation methods and by using the appropriate class or useful lives provided for or permitted under Section 167 of the Code, or any corresponding provision of subsequent law; and the Lessees agree that they will at no time take any action or file any document which is inconsistent with the foregoing intent.

(b) If a determination is made by any Federal court decision (including a decision of the United States Tax Court), or if a determination, which is concurred in by the tax counsel designated as provided in Section 7A(f) hereof, is made by the Internal Revenue Service ("IRS"), either of which determinations is hereinafter referred to as a ("Final Determination"), that, due to any future amendment to the provisions of the Code relating to the investment tax credit, or due to any act or omission of the Lessees, or due to the use of omission to use any Car during the term of this Lease with respect thereto, the Owner shall not have or shall lose (by recapture or otherwise) the right to claim, or there shall be disallowed any portion of, the investment tax credit (provided for in Sections 38 and 46 through 50 of the Code, as in effect on the date of this Lease) equal to seven percent of the Owner's "qualified investment" (within the meaning of Section 46(c) of the Code and Sections 1.46-3 and 1.1502-3 of Treasury Income Tax Regulations) (hereinafter called "Qualified Investment") in

any Car, because such Car is not "new Section 38 property" (within the meaning of Section 48(b) of the Code) with respect to the Owner at the commencement of the Initial Term as to such Car or because such Car ceases to be "section 38 property" (within the meaning of Section 48(a) of the Code) with respect to the Owner; the Lessees shall pay to the Lessor as liquidated damages (for the loss of a bargain and not as a penalty) within thirty days of such Final Determination the amount computed under Section 7A(e) hereof.

(c) The Lessees shall also pay to the Lessor as liquidated damages the amount computed under Section 7A(e) hereof if it is the opinion of the tax counsel designated as provided in Section 7A(f) hereof that due to any future amendment to the provisions of the Code relating to the investment tax credit, or due to any act or omission of the Lessees, or due to the use or omission to use any Car during the term of this Lease with respect thereto, the Owner may not reasonably claim an investment tax credit of seven percent of the Owner's Qualified Investment in any Car, or may not reasonably fail to recompute an investment tax credit previously claimed with respect to any Car, because such Car is not "new section 38 property" (within the meaning of Section 48(b) of the Code) with respect to the Owner at the commencement of the Initial Term as to such Car or because such Car ceases to be "section 38 property" (within the meaning of Section 48(a) of the Code) with respect to the Owner. The issuance of the opinion referred to in the preceding sentence of this paragraph shall be considered to be a Final Determination for all purposes of this Section 7A.

(d) Unless the terms of this Lease or any waiver of the terms hereof specifically provide otherwise by express reference to this Section 7A, the obligation of the Lessees under this Section 7A to pay liquidated damages under the circumstances provided for herein shall not be reduced or eliminated, except that (1) the Lessees shall be under no obligation whatsoever to pay any such liquidated damages if a Final Determination results in the lease between the Owner and the Lessor constituting a sale for Federal income tax purposes, (2) the Lessees shall be under no obligation to pay such liquidated damages with respect to any Car for which the Lessees shall pay liquidated damages as provided in Section 9 hereof and (3) the Lessees shall be under no obligation to pay such liquidated damages with respect to any Car to the extent that the Owner, or any affiliated group of which the Owner is a member, would not have obtained a tax benefit from all or any portion of an investment tax credit with respect to such Car due to the failure of the Owner, or any affiliated group of which the Owner is a member, to have sufficient Federal income tax liability.

(e) The liquidated damages attributable to any Final Determination provided for in Section 7A(b) and (c) hereof shall be an amount equal to the sum of:

(1) The quotient of (i) the difference between seven percent of the Owner's Qualified Investment in the Unit (or the total investment tax credit previously allowed the Owner if there has been a previous Final Determination with respect to such Unit) and the investment tax credits with respect to the Unit which are allowed to the Owner (before taking into account any limitation on the amount of such credit based on the Owner's Federal income tax liability), divided by (ii) that

percentage which is the difference between (A) one hundred percent and (B) the highest effective Federal income tax and/or excess profits tax rate generally applicable to domestic corporations for the taxable year of the Owner in which such Final Determination is made (hereinafter referred to as the "Federal Tax Rate"), plus

(2) (i) The amount of any Federal tax penalties attributable to any act or omission of the Lessees required to be paid by the Owner with respect to such Final Determination divided by that percentage which is the difference between (A) one hundred percent and (B) the Federal Tax Rate and (ii) the amount of any Federal tax deficiency interest applicable to such Final Determination which is required to be paid by the Owner and is attributable to the period prior to the Lessees' payment to the Lessor of the liquidated damages resulting from such Final Determination.

(f) The tax counsel referred to in Section 7A(b) and (c) hereof shall be such tax practitioner as the Lessor and the Lessees shall agree to and designate in writing. However, if the Lessor and the Lessees are unwilling or unable to so agree and designate, such tax counsel shall be such law firm or public accounting firm as the respective public accounting firms retained by the Lessor and the Lessees shall in their sole discretion agree to and designate in writing. The Lessor and the Lessees shall share equally in any expenses, including fees and disbursements, of any such tax counsel so agreed to and designated for the purposes provided in this Section 7A.

(g) In the event that the Owner, or the common parent corporation of any affiliated group of which the Owner is a member, shall commence any law suit in any Federal court (including the United States Tax Court) which, if decided adversely to the Owner or any such common parent corporation, would obligate the Lessees to pay liquidated damages to the Lessor pursuant to Section 7A(b) hereof then, and in any such event, the Lessor shall within forty days of the commencement of such law suit advise the Lessees in writing of the commencement of such suit and shall thereafter keep the Lessees informed as to the progress thereof. The Lessor and the Owner shall use their best efforts to assure the successful prosecution of any such law suit; and Lessees shall use their best efforts to comply with any reasonable requests made by the Lessor or the Owner for assistance in the prosecution of such suit. The Lessor and the Lessees shall share in the expenses of conducting any such law suit, including the fees and disbursements of any outside counsel and any other costs incurred by the Owner or the Lessees which are directly related to such law suit, in such proportions as the Lessor and the Lessees shall agree upon. However, if the Lessor and the Lessees are unwilling or unable to so agree, such expenses shall be paid by the Lessor and the Lessees in such proportions as shall be deemed equitable in the opinion of the tax counsel designated as provided in Section 7A(f) hereof.

(h) In the event a determination of the specific type described in Section 7A(b) hereof shall have been made by the IRS, except that such determination shall not be a Final Determination by reason that such determination shall not have been concurred in by the tax counsel designated as provided in Section 7A(f) hereof, and in the further event that (1) the Owner, or the common parent corporation of any affiliated group of which the Owner is a member, shall have paid to the IRS the amount of any Federal income tax deficiency and statutory interest thereon attributable to such determination and shall have filed with the IRS a claim for refund of such amount, (2) the IRS shall have failed to refund all or any portion of such amount, (3) the Owner, or any such common parent corporation, shall have commenced a suit in a Federal court for the recovery of the unrefunded portion of such amount, and (4) with respect to such suit such court shall have made a Final Determination as specifically described in Section 7A(b) hereof; then, and in any such eventuality, in addition to the liquidated damages applicable to such Final Determination, the Lessees shall pay to the Lessor within thirty days of such Final Determination an amount equal to interest on the unrefundable portion of such amount computed at the rate of six percent per annum or the effective interest cost to the Lessor, whichever is greater, from the date of said payment of such amount to the IRS to the date of such Final Determination. In no event shall such interest cost exceed 8 3/4% per annum.

SECTION 8. MAINTENANCE, LIENS AND INSURANCE.

(a) Lessor makes no warranty or representation, either expressed or implied in respect of the Cars, including without limitation, any warranty or representation as to the fitness, design or condition of, or as to the quality of the material, equipment or workmanship in, the Cars delivered to Lessees hereunder, it being agreed that all such risks, as between Lessor and Lessees, are to be borne by Lessees.

(b) Lessees agree, during the continuance of this Lease, at Lessees' own cost and expense, to maintain and keep all of the Cars in first class condition and repair and in good and efficient working order, reasonable wear and tear excepted, and acceptable for use in unrestricted interchange and the Cars shall be delivered to Lessor at termination of the Lease in such condition.

(c) Except for alterations or changes required by law, Lessees shall not, without the prior written approval of Lessor, effect any change in the design, construction or body of the Cars or appurtenances thereto.

(d) Any parts installed or replacements made by Lessees upon any Car shall be considered accessions to such Car and title thereto shall be immediately vested in Lessor, without cost or expense to Lessor except that this shall not apply to special equipment installed in any Car by Lessees with the consent of Lessor provided that such equipment is removed by Lessees before the Cars are returned to Lessor and all damage resulting from such installation and removal is repaired by Lessees and further provided that removal of such equipment does not affect the Cars' serviceability or use in unrestricted interchange.

(e) Lessees shall pay or satisfy and discharge any and all sums claimed by any party against Lessees which, if unpaid, might become a lien or a charge upon the Cars or entitled to priority over any of the rights of Lessor in and to the Cars, but Lessees shall not be required to discharge any such claim so long as they shall in good faith and by appropriate legal proceedings contest the validity thereof in any reasonable manner which, in the opinion of Lessor, will not affect or endanger the title and interest of Lessor in and to the Cars.

(f) Lessees shall, at their own cost and expense insure each Car from the time of delivery and acceptance thereof and at all times thereafter until Lessees' obligations under this Lease with respect to such Car have been discharged, against loss, damage or destruction thereof caused by fire, lightning, wreck, derailment, collision, flood, tornado, cyclone, sabotage, riot or civil commotion, such insurance, in the case of each Car, to be in an amount satisfactory to Lessor, except that such coverage may be limited so that no loss (1) amounting to not less than \$2,500 per Car or (2) amounting to more than \$100,000 per occurrence, shall be payable. All such insurance shall be taken for the benefit of Lessor, a holder of a Permitted Lien designated by Lessor and Lessees, as their respective interests may appear, in an insurance company or companies satisfactory to Lessor. Such policy or policies shall insure the respective interests of Lessor, holders of Permitted Lien and Lessees in the Cars and shall provide that the proceeds of such insurance shall be payable to Lessor. All insurance proceeds received by Lessor with respect to any Car shall

(i) be paid to Lessees, in the case of repairable damage to such Car or Cars, upon receipt by Lessor from Lessees of proof in duplicate satisfactory to Lessor of the proper repair of such damage; or

(ii) be applied by Lessor, in the case of the loss, destruction or damage beyond repair of such Car or Cars, towards the satisfaction of Lessees' obligation to make the payment required by Section 9 hereof.

(g) All such policies required above shall contain a provision to the effect that the insurer will give Lessor thirty (30) days prior written notice before cancellation or modification of any such policy is effective.

(h) Lessees shall provide insurance containing loss payable clauses satisfactory to Lessor, an assignee of Lessor and the holder of the Permitted Lien designated by Lessor. The Lessees shall furnish Lessor or Lessor's assignee or the holder of the Permitted Lien with certificates or other satisfactory evidence of the maintenance of the maintenance of the insurance required hereunder.

(i) Except as provided in paragraph (j) of this Section 8, the proceeds of any insurance received by Lessor on account of or for any loss or casualty shall be released to Lessees upon a written application signed by one of Lessees or by a person designated by Lessees for the payment of, or to reimburse Lessees for, the cost of repairing the Cars which have been damaged. Such application shall be accompanied by satisfactory evidence of the cost and satisfactory completion of such repair. If an Event of Default has occurred and is continuing hereunder, such proceeds may be applied at Lessor's option, against any liability of Lessees to Lessor hereunder.

(j) The proceeds of any insurance received by Lessor on account of a lost, stolen, destroyed or damaged Car in respect of which Lessees shall have made payment to Lessor pursuant to Section 9 hereof, shall be released to Lessees upon a written application signed by one of Lessees or a person duly authorized by the Lessees, provided, however, that if an Event of Default has occurred and is continuing hereunder, such proceeds may be applied by Lessor against any liability of Lessees to Lessor hereunder.

SECTION 9. LOSS, THEFT OR DESTRUCTION OF CAR. In the event any Car is lost or stolen or is destroyed or damaged beyond economic repair from any cause whatsoever during the term of this Lease, Lessees shall promptly and fully inform Lessor of such occurrence and shall, within thirty (30) days after such occurrence, pay to Lessor, as liquidated damages in lieu of any further claim of Lessor hereunder in respect of such Car, except for accrued rent and such claims as arise or exist under Sections 7 and 8 hereof the higher of:

(i) the present worth, as hereinafter defined of the total remaining rental for such Car plus the Net Scrap Value, as hereinafter defined, for such Car; or

(ii) a sum equal to the amount determined in accordance with the then current Code of Rules Governing the Settlement for Destroyed or Damaged Cars adopted by the Association of American Railroads (regardless of the inapplicability of such rules to the loss, theft, or destruction occurring on the lines of Lessees).

The present worth of the total remaining rental for such Car as used in paragraph (i) of this Section 9 shall mean an amount equal to such rental discounted on a 7% per annum basis compounded monthly from the date of such occurrence to the Terminal Day as defined in Section 2 hereof.

The Net Scrap Value of each Car shall mean an amount in cash equal to the current quoted price per gross ton of No. 1 Heavy Railroad Melting Steel Scrap, prevailing at Butler, Pennsylvania, as published in Iron Age or other reputable industrial journals, on the first day of the month preceding the month in which payment of such Net Scrap Value is required to be made, multiplied by 32.

In no event under this Section shall the Lessees be required to pay as the present worth of the remaining rental an amount in excess of 105% of the price of the Car as shown on Exhibit A hereto.

This Lease shall continue in full force and effect irrespective of the cause, place or extent of any damage, loss or destruction of any of the Cars, the risk of which shall be borne by Lessees; provided, however, that this Lease shall terminate with respect to any Car which is lost, stolen, destroyed or damaged beyond repair, on the date Lessor shall receive payment of the amount required to be paid to it on account of such Car under this Section 9.

SECTION 10. COMPLIANCE WITH LAWS AND RULES; INDEMNIFICATION. Lessees agree to comply in all respects with all laws of the jurisdictions in which their operations involving the Cars may extend and with all lawful rules of the Federal Railroad Administration and any other legislative, executive, administrative or judicial body exercising any power or jurisdiction over Lessees or over the Cars, to the extent that such laws and rules affect the operation, maintenance or use of the Cars. In the event such laws or rules require the alteration of the Cars, Lessees will conform therewith, at Lessees' expense, and will maintain the same in proper condition for operation under such laws and rules; provided, however, that Lessees may, in good faith, contest the validity and application of any such law or rule in any reasonable manner which does not, in the opinion of Lessor, adversely affect the property or rights of Lessor as owner hereunder.

Lessees hereby agree to indemnify, reimburse and hold Lessor and Owner harmless from any and all claims, demands, suits, judgments or causes of action for or on account of injury to or death of persons, or loss or damage to property which may result from or grow in any manner out of the control, use or operation of the Cars under this Lease whether or not in the possession of Lessees, provided, however, that Lessees do not assume liability in respect of representatives, agents or employees of the Manufacturer or Lessor, or Owner and provided, further that Lessor and Owner will assign or pay over to Lessees any and all claims which it may have against third parties in respect of loss or damage to the Cars if Lessees are not in default under this Lease.

SECTION 11. DEFAULT. If, during the continuance of this Lease or any extension thereof, one or more of the following events shall occur:

(a) default shall be made in the payment of any part of the rental provided in Section 3 hereof and such default shall continue for five (5) days after written notice from Lessor to Lessees;

(b) Lessees shall make or suffer any unauthorized assignment or transfer of this Lease or of possession of the Cars or any of them except for the requisitioning, taking over or nationalizing described in Section 17 of this Lease and shall fail or refuse to cause such assignment or transfer to be cancelled by agreement of all parties having any interest therein and to recover possession of such Car or Cars within thirty (30) days after written notice from Lessor to Lessees demanding such cancellation and recovery of possession;

(c) default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of Lessees contained herein and such default shall continue for thirty (30) days after written notice from Lessor to Lessees specifying the default and demanding the same to be remedied;

(d) any material representation made by Lessees herein or hereunder or in any certificate or other instrument delivered under or pursuant to any provision hereof shall prove to have been false or incorrect in any material respect on the date as of which made;

(e) the order dated June 2, 1972, of the United States District Court for the Eastern District of Pennsylvania in the pending proceedings for the reorganization of the Railroad, authorizing the execution and delivery of this Lease by Lessees and their undertaking of the obligations, duties and liabilities hereof, shall be reversed, modified, amended or superseded in any material respect which might adversely affect any of the rights, powers, privileges and remedies of the Lessor under this Lease or of any assignee of the Lessor's right, title and interest in and under this Lease, and the order effecting such reversal, amendment, modification or superseding of said order shall not have been vacated or set aside or stayed within sixty (60) days from the date of entry thereof;

(f) a plan of reorganization of the Railroad is approved by the Court in the pending proceedings for the reorganization of the Railroad and said plan does not provide for the assumption by the Reorganized Company as hereinafter defined of each and every obligation of Lessees under this Lease in form and substance satisfactory to Lessor;

(g) a petition for reorganization under Section 77 of the Bankruptcy Act, as now constituted or as said Section 77 may be hereafter amended, or any other provisions of such act or similar act shall be filed by or against any Reorganized Company as hereinafter defined and all the obligations of Lessees under this Lease shall not have been duly assumed by a trustee or trustees appointed in such proceedings or otherwise given the same status as obligations assumed by such a trustee or trustees within thirty (30) days after such appointment if any, or sixty (60) days after such petition shall have been filed, whichever shall be earlier; or

(h) any proceedings shall be commenced by or against any Reorganized Company as hereinafter defined for any relief under any bankruptcy or insolvency laws, or laws relating to the relief of debtors, readjustments of indebtedness, reorganizations, arrangements, compositions or extensions (other than a law which does not permit any readjustment of the indebtedness payable hereunder), and all the obligations of Lessees under this Lease shall not have been duly assumed by a trustee or trustees or receiver or receivers appointed for such Reorganized Company or for its property in connection with any such proceedings or otherwise given the same status as obligations assumed by such a trustee or trustees or receiver or receivers, within thirty (30) days after such appointment, if any, or sixty (60) days after such proceedings shall have been commenced, whichever shall be earlier;

then, in any such case (herein sometimes called Events of Default), Lessor, at its option, may

(1) proceed by appropriate court action or actions, either at law or in equity, to enforce performance by Lessees of the applicable covenants of this Lease or to recover damages for the breach thereof; and or

(2) by notice in writing to Lessees terminate this Lease, whereupon all right of Lessees to the use of the Cars shall absolutely cease and determine as though this Lease had never been made, but Lessees shall remain liable as herein provided; and thereupon Lessees shall deliver possession of the Cars to Lessor in accordance with Section 15 hereof and Lessor may by its agents enter upon the premises of Lessees or other premises where any of the Cars may be and take possession of all or any of such Cars (damages occasioned by such taking of possession are hereby expressly waived by Lessees) and thenceforth hold, possess and enjoy the same free from any right of Lessees, or Lessees' successors or assigns, to use the Cars for any purpose whatever; but Lessor shall nevertheless, have a right to recover from Lessees any and all amounts which under the terms of this Lease may be then due or which may become due and unpaid for the use of the Cars (including rentals accruing on the Cars after the date of default); and also to recover forthwith from Lessees (to the extent not recovered pursuant to the foregoing) the following:

(i) as damages for loss of the bargain and not as a penalty, a sum, with respect to Cars whose term has not expired, which represents the excess of the present worth, at the time of such termination, of the aggregate of the rentals for the Cars which would otherwise have accrued hereunder from the date of such termination to the Terminal Day of the then current term over the then present worth of the Fair Rental Value of such Cars for such period; plus interest on such excess at the rate of 10% per annum commencing on the date of such notice. Such present worths are to be computed in each case by discounting such rental payments at a rate of 8-1/2% per annum compounded monthly from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated to the time of such termination, and

(ii) any expenses incurred in the retaking, storage repairing and lease, sale or other disposition, and reasonable attorneys' fees incurred by Lessor, plus an amount equal to accrued taxes and other amount payable hereunder by Lessees with respect to the Cars, all costs, expenses, losses and damages incurred or sustained by Lessor by reason of such default, and interest at the rate of 10% per annum on each of the foregoing items in this subparagraph (ii) and on all other sums not paid when due under this Lease.

If on the date of such termination or repossession, any Car is damaged, lost, stolen or destroyed or is subject to any levy, seizure, assignment, application or sale for or by any creditor, Lessees shall also remain liable for payment of the amounts specified in Section 9 hereof.

The remedies in this Lease provided in favor of Lessor shall not be deemed exclusive, but shall be cumulative, and shall be in addition to all other remedies in its favor existing at law or in equity. Lessees hereby waive any mandatory requirements of law, now or hereafter in effect, which might limit or modify any of the remedies herein provided, to the extent that such waiver is permitted by law. No delay or omission of Lessor in the exercise of any power or remedy given herein shall be deemed a waiver of such power or remedy. In the event that Lessor shall bring suit and be entitled to judgment hereunder, then Lessor shall be entitled to recover reasonable expenses, including attorneys' fees and the amount thereof shall be included in such judgment.

SECTION 12. POSSESSION AND USE OF THE CARS

POSSESSION AND USE OF THE CARS. Unless an Event of Default shall have occurred and be continuing, Lessees shall be entitled to the possession and use of the Cars in accordance with the terms of this Lease. Lessees shall not, without the prior written consent of Lessor, part with the possession or control of, or suffer or allow to pass out of their possession or control, any of the Cars, except that Lessees may permit the use thereof or any part thereof by other railroads in the usual interchange of traffic.

SECTION 13. ASSIGNMENT.

(a) All rights, benefits and advantages of Lessor hereunder may be assigned, pledged, mortgaged, transferred or otherwise disposed of, or Lessor may sell the Cars and Lease the Cars, or lease the Cars from Owner thereby making this Lease a Sublease, either in whole or in part, and/or Lessor may assign, pledge, mortgage, transfer or otherwise dispose of title to the Cars, with or without notice to Lessee. In the event of any such assignment, pledge, mortgage, transfer or other disposition, this Lease and all of Lessees' rights under this Lease, and all rights of any person, firm or corporation who claims or who may hereafter claim any rights under this Lease under or through Lessees, are hereby made subject and subordinate to the terms, covenants and conditions of any chattel mortgages, conditional sale agreements, agreements and assignments, and/or equipment trust agreements or sales and leasebacks or the lease from Owner covering the Cars or any of them heretofore or hereafter created and entered into by Lessor, its successors or assigns, and to all of the rights of any such chattel mortgagee, assignee, trustee Lessor or other holder of the legal title to the cars. Any assignment or transfer of Lessees' leasehold interest hereunder in the Cars and possession thereof permitted by this Section 13 that is made by Lessees, their successors or assigns, shall contain language which expressly makes such sublease subject to the subordination contained in this Subsection 13 (a). Provided Lessee is not in default under this Lease if Lessees right to use the Cars or any of them is terminated by any person, firm or corporation to whom Lessees rights are subordinated under the terms of this section, Lessees shall have no obligation to pay rent for such Cars after the date of such termination. At the request of Lessor or any chattel mortgagee, assignee, trustee, Lessor or other holder of the legal title to the Cars, the Cars may be lettered or marked to identify the legal owner of the Cars at no expense to Lessor for the initial markings at the time of delivery of the Cars, thereafter such additional markings shall be at no expense to Lessees. If during the continuance of this Lease any such marking shall at any time be removed or become illegible, wholly or in part, Lessees shall immediately cause such marking to be restored or replaced, at Lessees expense. No such assignment by Lessor shall subject any assignee to or relieve Lessor from any obligation of Lessor hereunder or affect the rights of Lessees under this section.

(b) Lessees, without the prior written consent of Lessor, shall not sell, assign, transfer or encumber their leasehold interest under this Lease in any of the Cars or sublet any of the Cars, except that Lessees may assign and transfer their leasehold interest hereunder in the Cars and the possession thereof to any railroad or other corporation which shall have assumed all of the obligations hereunder of Lessees (except

to the extent that the provisions of any mortgage now or hereafter created on any of the lines of railroad of Lessees or any other liens authorized by the Court in the proceedings for the reorganization of the Railroad may subject such leasehold interest to the lien thereof), provided no such assignment, without the consent of Lessor, shall relieve Lessees of any obligation hereunder. Any assignment prohibited by this Section 13 shall be void.

(c) Nothing in this Section 13 shall be deemed to limit the right of Lessees to assign and transfer Lessees' leasehold interest hereunder in the Cars and the possession thereof to a Reorganized Company (as hereinafter defined), or to a governmental agency empowered to acquire railroad equipment provided that all the obligations then existing or to accrue of Lessees under this Lease shall be assumed as a general obligation by such Reorganized Company or governmental agency.

(d) After any assignment and transfer of Lessees' leasehold interest hereunder in the Cars and the possession thereof as above permitted, nothing in this Section 13 shall be deemed to limit the right of the Reorganized Company (as hereinafter defined) as successor to Lessees, at any time further to assign and transfer their leasehold interest hereunder in the Cars and the possession thereof to any successor which shall have assumed all of the obligations hereunder of Lessees and into or with which such Reorganized Company shall have merged or consolidated or which shall have acquired all or substantially all of the property of such Reorganized Company; nor shall anything in this Section 13 be deemed to limit such successive assignments and transfers.

(e) The term "Reorganized Company" shall mean any corporation (which may be the Railroad) or governmental agency which acquires the greater portion of the lines of railroad comprised in the Railroad's estate upon termination of the trusteeship of the property of the Railroad, and thereafter shall include any successor which shall have become such in compliance with paragraph (d) of this Section 13.

(f) The term "Lessees" whenever used in this Lease means George P. Baker, Richard C. Bond, Jervis Langdon, Jr. and Willard Wirtz, Trustees of the property of the Railroad, as well as any successor or additional trustees of such property, before any assignment and transfer of Lessees' lease-

hold interest hereunder in the Cars and the possession thereof to a Reorganized Company or governmental agency as hereinbefore provided in this Section 13 and thereafter shall mean any Reorganized Company or governmental agency.

(g) The liabilities and obligations of said Trustees, George P. Baker, Richard C. Bond, Jervis Langdon, Jr. and Willard Wirtz, as well as of any successor or additional trustees, under and in respect of this Lease, are the liabilities of such Trustees, or any or all of them, solely as trustees of the property of the Railroad, and not individually. Said Trustees and any successor or additional trustees shall not be relieved of their liabilities or obligations as such Trustees under or in respect of this Lease, except upon any assignment and transfer of Lessees' leasehold interest hereunder in the Cars and the possession thereof to a Reorganized Company or governmental agency as hereinbefore provided in this Section 13. Lessor may assign its right in whole or in part under this Lease without the consent of Lessee, but Lessee shall be under no obligation to any assignee of the Lessor except upon written notice of such assignment from Lessor. Upon notice to the Lessee of any such assignment, the rent and other sums payable by the Lessee which are the subject matter of the assignment shall be paid to the assignee. Without limiting the foregoing, the Lessee further acknowledges and agrees that (i) subject to the provisions of Sections 4(a) and 9 hereof the rights of any such assignee in and to the sums payable by the Lessee under any provisions of this Lease either payable or for periods after the date of such assignment shall not be subject to any abatement whatsoever, and shall not be subject to any defense, set-off, counterclaim or recoupment whatsoever whether by reason of or defect in Lessor's title, or by reason of any other indebtedness or liability, howsoever and whenever arising, of the Lessor to the Lessee or to any other person, firm or corporation or to any governmental authority or for any cause whatsoever, it being the intent hereof that, except in the event of a wrongful act on the part of the assignee, the Lessee shall be unconditionally and absolutely obligated to pay the assignee all of the rents and other sums which are the subject matter of the assignment and (ii) the assignee shall have the sole right to exercise all rights, privileges and remedies (either in its own name or in the name of the Lessor for the use and benefit of the assignee) which by the terms of this Lease are permitted or provided to be exercised by the Lessor. Nothing provided in (i) or (ii) above shall affect or limit any liability of Lessor to Lessee under the terms of this Lease.

SECTION 14. REPORTS, RIGHT TO INSPECT THE CARS.

(a) During the continuance of this Lease, Lessees agree that they and their agents, employees and representatives will cooperate with Lessor in the investigation and defense of any and all

claims against the Lessor which may arise as a result of the alleged or apparent improper manufacturing, functioning or operation of any of the Cars and that they will aid in the recovery of damages from any third parties responsible therefor. Lessees also agree to give Lessor such information with respect to any accident resulting from the use of the Cars as may be reasonably requested by the Lessor.

(b) During the continuance of this Lease, Lessees will, as soon after the close of each fiscal year of Lessees as practicable, furnish to Lessor in duplicate copies of Lessees' most recent financial reports, including Lessees' most recent annual report and/or balance sheet and profit and loss statement, certified by either a recognized firm of Certified Public Accountants, or by the chief financial officer designated by Lessees. Interim statements, so certified, will be furnished by Lessees as requested by Lessor.

(c) During the term hereof, Lessees will furnish to Lessor, on or before April 1 in each year (commencing with the year 1973) and on such other dates as Lessor may from time to time reasonably request, an accurate report certified by a duly authorized agent of Lessees or officer of the Railroad stating as of a recent date (but, in the case of each annual statement, not earlier than the preceding December 31 and in the case of any other such statement, not earlier than a date ninety (90) days preceding the date of such statement): (a) (i) Lessees' car numbers of the Cars then subject to this Lease, (ii) Lessees' car numbers of all Cars that have become worn out, lost, destroyed, irreparably damaged or rendered permanently unfit for use since the date of the previous report (or since the date hereof in the case of the first such report), (iii) Lessees' car numbers of all Cars being repaired or awaiting repairs, and (iv) Lessees' car numbers of all Cars that have been requisitioned, taken over or nationalized by any governmental authority since the date of the previous report (or since the date hereof in the case of the first such report) (b) that all Cars then subject to the Lease have been maintained in accordance with Subsection 8(b) hereof or, if such be the case, are then being repaired in accordance with Section 8 hereof, and that the legend placed on the Cars as required by Section 6 hereof has been preserved or repainted on each side of each Car as required by Section 6 hereof; and (c) such other information regarding the location, condition and state of repair of the Cars as Lessor may reasonably request.

(d) Lessor and/or its assignee shall have the right at its sole cost and expense, by its authorized agents, employees and/or representatives, to inspect the Cars and Lessees' records with respect thereto, at such times and from time to time during the continuance of this Lease as may be reasonably necessary to confirm to the satisfaction of Lessor and/or its assignee the existence and proper maintenance of the Cars; provided, however, that notwithstanding any contrary provision hereof, Lessees do not assume liability for injury to, or the death of, any agents, employees and/or representatives of Lessor or other persons while exercising any right of Lessor and/or its assignee under this Subsection 14 (d).

SECTION 15. RETURN OF CARS. Upon the expiration of the term of this Lease, or if Lessor shall rightfully demand possession of the Cars pursuant to this Lease or otherwise Lessees shall forthwith remove or cause any lettering of the names or initials or other insignia customarily used by Lessees to be removed from the Cars at their cost and expense and deliver the possession of the Cars to Lessor. For such purpose Lessees shall at their own cost and expense forthwith assemble the Cars and place them upon such storage tracks of Lessees as Lessor may designate, or, in the absence of such designation, as Lessees may select, and Lessees shall permit Lessor to store said Cars on such tracks for a period not exceeding one hundred (100) days from the date that all Cars are so assembled at the risk of Lessor, and shall at Lessees own cost and expense transport or cause to be transported the same or any thereof, at any time within such one hundred (100) day period, to Lessor's facility in Chicago Ridge, Illinois or to any place selected by Lessor provided Lessee shall pay no part of the transportation expenses which exceed the cost of returning the Cars to Lessor's place of business in Chicago Ridge, Illinois, or to any place or places on the lines of Railroad designated by them or to any connecting carrier for shipment all as directed by Lessor. The assembling, delivery, storage and transporting of the Cars as hereinabove provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises Lessor shall be entitled to a decree against Lessees so as to assemble, deliver, store and transport the Cars. Lessor reserves the right to designate different places of assembly for different Cars.

Without in any way limiting the obligation of Lessees under the foregoing provisions of this Section 15, Lessees hereby irrevocably appoint Lessor as the agent and attorney

of Lessees, with full power and authority, at any time while Lessees are obligated to deliver possession of any Car to Lessor, to demand and take possession of such Car in the name and behalf of Lessees from whomsoever shall be at the time in possession of such Car.

Except as otherwise provided in Section 9 hereof, in the event that any Car or Cars subject to this Lease are not redelivered to Lessor on or before the date on which the term of this Lease expires, all of the obligations of Lessees under this Lease with respect to such Car or Cars shall remain in full force and effect until such Car or Cars are redelivered to Lessor.

SECTION 16, PURCHASE OPTIONS. Provided that this Lease has not been earlier terminated and Lessees are not in default hereunder, Lessees may by written notice delivered to Lessor not less than six months prior to the end of the Initial Term, the First Extended Term or the Second Extended Term of this Lease, elect to purchase all of the Cars covered by this Lease at the end of such term or extension of this Lease for a purchase price equal to the Fair Market Value of such Cars as of the end of such term or extension.

If on or before four months prior to the extension of the term of this Lease or any extension thereof, Lessor and Lessees are unable to agree upon a determination of the Fair Market Value of the Cars, the Fair Market Value shall be determined by an appraiser or appraisers under the same procedures as are set forth in Section 3 hereof.

Fair Market Value shall mean at any time for the determination thereof an amount determined on the basis of, and equal to, the value which would obtain in an arm's-length transaction between an informed and willing buyer-user (other than (i) a Lessee currently in possession and (ii) a used equipment dealer) and an informed and willing seller under no compulsion to sell and, in such determination, costs of removal from the location of current use shall not be a deduction from such value.

SECTION 17. GOVERNMENTAL ACTION. If any Car is requisitioned, taken over or nationalized by any governmental authority under the power of eminent domain or otherwise during the term of this Lease and all of the obligations of the Lessees hereunder are not assumed by such governmental authority within 60 days after such nationalization, Lessor shall be entitled to the full amount of any award or recovery of such occurrence and Lessees hereby expressly waive any right or claim to any part of such award or recovery as damages or otherwise and at the end of such 60 day period Lessees shall pay the Lessor a sum computed as though such Cars taken had been lost, stolen or destroyed under provision (a) of Section 9 hereof. To the extent that Lessor is paid any amount under this Section by Lessees, Lessor will pay to Lessees the amount of such award or recovery for such Cars received from any such governmental authority.

SECTION 18. MODIFICATION OF LEASE. This lease exclusively and completely state the rights of the Lessor and Lessees with respect to the Cars. No modification, variation, termination, discharge or abandonment hereof and no waiver of any of the provisions or conditions shall be valid unless in writing and signed by duly authorized representatives of Lessor and Lessees, or the successors, transferees or assigns of either subject, however, to the limitations on assignment hereof by Lessees.

SECTION 19. ASSIGNMENT OF RENTS. The Lessees hereby assign to Lessor all of its right, title and interest in and to any present and future Lease or sub-lease or earnings (including without limitation mileage allowances) with respect to the Cars including their right to receive all payments due and to become due thereunder. Notwithstanding the above, until such time as there exists a default under this Lease by Lessee, Lessee shall be entitled to collect such rentals, retain, use and enjoy the same.

SECTION 20. SECTION HEADINGS AND CERTAIN REFERENCES. All section headings are inserted for convenience only and shall not affect any construction or interpretation of this Lease. Unless otherwise indicated, all references herein to sections, subsections, clauses and other subdivisions refer to the corresponding sections, subsections, clauses and other subdivisions of this Lease; the words "herein", "hereof", "hereby", "hereto", "hereunder", and words of similar import refer to this Lease as a whole and not to any particular

section, subsection, clause or other subdivision hereof; and reference to a numbered or lettered subdivision of a section shall include relevant matter within the section which is applicable to but not within such numbered or lettered subdivision.

SECTION 21. CERTAIN APPLICABLE LAWS. Any provision hereof prohibited by or unlawful or unenforceable under any applicable law of any jurisdiction shall as to such jurisdiction be ineffective without modifying the remaining provisions of this Lease. Where, however, the provisions of any such applicable law may be waived, they are hereby waived by Lessees to the full extent permitted by law, to the end that this Lease shall be deemed to be a valid, binding agreement enforceable in accordance with its terms.

SECTION 22. 360 DAY YEAR. Computations hereunder involving the determination of interest or discount shall be made on the basis of a 360-day year of twelve 30-day months.

SECTION 23. NOTICES. All demands, notices and other communications hereunder shall be in writing and shall be deemed to have been duly given when personally delivered or delivered to a United States post office, first-class postage prepaid, or to a telegraph office, charges prepaid, addressed as follows:

If to the Lessor:

North American Car Corporation
77 South Wacker Drive
Chicago, Illinois 60606
Attention Financial Vice President

If to the Lessees:

Trustees of the Property of
Penn Central Transportation Company, Debtor
Room 1334, Six Penn Center Plaza
Philadelphia, Pennsylvania 19104
Attention Treasurer

or to such other addresses as may hereafter be furnished in writing by either party to the other.

SECTION 24. GOVERNING LAW. The provisions of this Lease and all rights and obligations hereunder shall be governed by and construed in accordance with the laws of the State of Illinois.

SECTION 25. SURVIVAL OF COVENANTS. Any other provisions contained in this Lease to the contrary notwithstanding, it is hereby agreed that the provisions of Section 7, 10, 11, 13 and 15 hereof shall survive the expiration or termination hereof.

SECTION 26. SUCCESSORS AND ASSIGNS. Subject to the provisions of Section 13, this Lease shall be binding upon and shall inure to the benefit of Lessor and Lessees and their respective successors and assigns, and no other persons shall have or acquire any right under or by virtue of this Lease.

SECTION 27. EXECUTION IN COUNTERPARTS. This Lease may be executed simultaneously in several counterparts, each of which so executed shall be deemed to be an original, and all such counterparts together shall constitute but one and the same instrument.

SECTION 28. RECORDING. Lessees, without expense to Lessor, will cause this Lease and all amendments, supplements and assignments hereof or thereof, to be duly filed and recorded and re-filed and re-recorded with the Interstate Commerce Commission in accordance with Section 20c of the Interstate Commerce Act and this Lease to be deposited with the Registrar General of Canada in accordance with Section 86 of the Railway Act (a notice of such deposit to be given in the "Canada Gazette" pursuant to said Section 86). Lessees agree to make such other filings as may be required to perfect and protect the ownership of Lessor and the holders of a Permitted Lien in the Province of Ontario, Canada and will make such additional filings as may be required so that at all times the ownership of Lessor and the holders of any Permitted Lien shall be perfected and protected as to not less than 95% of the Cars whether such use results from the use of the Cars outside of the United States and the Province of Ontario or otherwise will from time to time do and perform any other act and will execute, acknowledge, deliver, file, register and record (and will re-file, re-register, or re-record whenever required) any and all further instruments required by law or reasonably requested by Lessor for the purposes of protecting the Lessor's title or Owner under a leaseback arrangement or any mortgagees security interest constituting a Permitted Lien in the Cars to the satisfaction of Lessor or any such Lessor's or such Permitted Lien holders' counsel or for the purpose of carrying out the intent of this lease and in connection with

any such action will deliver to Lessor proof of such filings and an opinion of the Lessee's counsel that such action has been properly taken. The Lessee will pay all costs, charges and expenses incident to any such filing, re-filing, registering, re-registering, recording and re-recording of any such instruments or incident to the taking of such action. Lessees will promptly furnish to Lessor certificates or other evidences of such filing and recording and re-filing and re-recording and an opinion satisfactory to Lessor of Counsel for Lessees, or an attorney designated by him satisfactory to Lessor, with respect thereto. In addition, Lessees shall do and perform all such other acts as may be required by law, or reasonably requested by Lessor, for the protection of Lessor's title to and interest in the Cars.

SECTION 29. OTHER EQUIPMENT LEASES AND SECURED OBLIGATIONS. Lessees agree that, during the continuance of this Lease, Lessees will not assume or enter into any other leases of equipment, equipment trust agreements, conditional sale agreements or other liabilities or obligations in connection with the leasing or financing or the acquisition of equipment (i) if such liabilities or obligations would be entitled, directly or indirectly, to any priority in right of payment over the obligations of Lessees under this Lease, or (ii) if such liabilities or obligations would be secured, directly or indirectly, by any mortgage, lien or other security interest in property of the Railroad or Lessees (except the equipment or other property involved in the particular transaction) unless the obligations of Lessees under this Lease are equally and ratably secured thereby.

SECTION 30. CUMULATIVE REMEDIES. The remedies in this Lease provided in favor of the Lessor shall not be deemed exclusive, but shall be cumulative and shall be in addition to all other remedies in its favor existing at law or in equity. The Lessees hereby waive any mandatory requirements of law, now or hereafter in effect, which might limit or modify any of the remedies, herein provided, to the extent that such waiver is permitted by law. The Lessees hereby waive any and all existing or future claims of any right to assert any off-set against the rent payments due hereunder, and agree to make the rent payments regardless of any off-set or claim which may be asserted by the Lessees on their behalf in connection with the lease of the Cars.

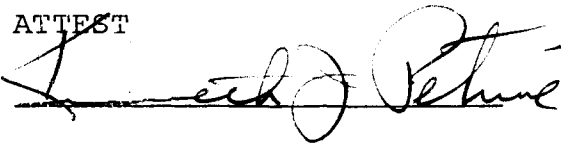
SECTION 31. LESSOR'S FAILURE TO EXERCISE RIGHTS. The failure of the Lessor to exercise the rights granted it hereunder upon any occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies.

SECTION 32. LESSOR APPOINTED LESSEES' AGENT. Without in any way limiting the obligations of the Lessees under the foregoing provisions of Section 15 hereof, the Lessees hereby irrevocably appoint the Lessor as the agent and attorney of Lessees, with full power and authority, at any time while the Lessees are obligated to deliver possession of any Cars to Lessor, to demand and take possession of such Cars in the name and on behalf of Lessees from whosoever shall be at the time in possession of such Cars.

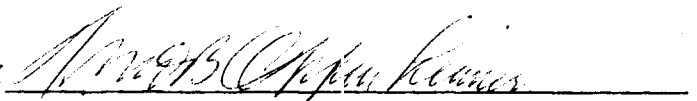
IN WITNESS WHEREOF, Lessor has caused this Lease to be executed in its corporate name, by one of its officers thereunto duly authorized and its corporate seal to be hereunto affixed and duly attested, and Lessees have caused this Lease to be executed on the day and year first above written.

NORTH AMERICAN CAR CORPORATION

ATTEST




BY



WITNESS:

GEORGE P. BAKER, RICHARD C. BOND
JERVIS LANGDON, JR., AND WILLARD WIRTZ,
TRUSTEES OF THE PROPERTY OF PENN CENTRAL
TRANSPORTATION COMPANY, DEBTOR


Assistant Secretary

BY



STATE OF ILLINOIS

)

) SS

COUNTY OF COOK

)

On this 1st day of June, 1972, before me personally appeared Robert B. Appenberger, to me personally known who, being by me duly sworn, said that he is a Vice President of North American Car Corporation, that the seal affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation this day by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Kevin R. Noble
Notary Public

COMMONWEALTH OF PENNSYLVANIA

)

) SS

COUNTY OF PHILADELPHIA

)

On this 8th day of June, 1972, before me personally appeared W. K. [unclear], to me personally known, who being by me duly sworn said that he is a Vice President of the Trustees of the property of Penn Central Transportation Company, Debtor, that the foregoing instrument was signed by him this day on behalf of and by authority of the Trustees of the property of Penn Central Transportation Company, Debtor, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Trustee.

John C. Vermeil
Notary Public

Notary Public, Philadelphia, Philadelphia Co.
My Commission Expires July 21, 1975

EXHIBIT A

<u>Group</u>	<u>Description of Cars</u>	<u>No. of Cars</u>	<u>Specifications</u>	<u>Base Price Per Car</u>	<u>Initial Term Monthly Rental</u>
1	4700 cubic foot. 100-ton capacity covered hopper cars with gravity gate unloading and lined	400 numbered PC 890101 through PC 890500, both inclusive	Manufacturer's Specifications	\$19,300	\$192.89
2	4700 cubic foot 100-ton capacity covered hopper cars with pneumatic unloading and lined	100 numbered PC 890001 through PC 890100, both inclusive	Manufacturer's Specifications	\$20,025	\$200.14

EXHIBIT B

CERTIFICATE OF INSPECTION AND ACCEPTANCE

The undersigned, the duly authorized representative of North American Car Corporation, (Lessor), and of George P. Baker, Richard C. Bond, Jervis Langdon, Jr. and Willard Wirtz, Trustees of the property of Penn Central Transportation Company, Debtor, (Lessees), hereby certifies with respect to _____ covered hopper cars, manufactured by Pullman Incorporated (Pullman-Standard division) (Manufacturer), bearing the identifying reporting marks PC and numbered, as follows:

pursuant to the Lease of Railroad Equipment, dated _____, 1972, between Lessor and Lessees (the Lease):

1. that during the manufacture of said cars by the Manufacturer he, either personally or through qualified inspectors working under his supervision, inspected, in accordance with inspection and testing practices and methods which in his opinion are adequate for the protection of Lessor and Lessees, the materials and other components which were incorporated in, and the construction of, said cars;
2. that the materials and other components incorporated in, and the construction of, said cars comply fully with, and said cars have been completed in full accordance with, the Specifications referred to in the Lease;
3. that said cars have been delivered in good order and ready for service by the Manufacturer to the Lessor and, on behalf of the Lessor, to Lessees, at Butler, Pennsylvania and were accepted by the undersigned on this date on behalf of Lessor and Lessees, in accordance with the provisions of the Lease; and
4. that there was plainly, distinctly, and conspicuously placed upon each side of each such cars at the time of its delivery and acceptance a legend bearing the following words in letters not less than one inch in height:

NORTH AMERICAN CAR CORPORATION, CHICAGO, ILLINOIS
SUB LESSOR
FIRST WESTERN BANK AND TRUST COMPANY AS AGENT, SAN
FRANCISCO, CALIFORNIA
SECURITY OWNER

Dated _____, 1972

Duly Authorized Representative of
North American Car Corporation
and of George P. Baker, Richard C. Bond,
Jervis Langdon, Jr. and Willard Wirtz,
Trustees of the property of Penn Central
Transportation Company, Debtor

EXHIBIT C

SUPPLEMENT DATED
RAILROAD EQUIPMENT DATED
AMERICAN CAR CORPORATION, Lessor, to GEORGE P. BAKER, RICHARD
C. BOND, JERVIS LANGDON, JR. AND WILLARD WIRZ, TRUSTEES OF
THE PROPERTY OF PENN CENTRAL TRANSPORTATION COMPANY, DEBTOR,
Lessees.

TO LEASE OF
FROM NORTH

Lessor and Lessees agree that the Cars, as defined below, are the only cars subject to the Lease and that all other cars described in the Lease are hereby deleted therefrom.

Lessor and Lessees hereby confirm that the below described covered hopper cars (the Cars) manufactured by Pullman Incorporated (Pullman-Standard division) (Manufacturer) for sale to Lessor were delivered to Lessees on or before the date hereof:

Lessor and Lessees confirm that the Cars were inspected by duly appointed and authorized representatives of Lessor and Lessees in accordance with Section 1 of the aforesaid Lease of Railroad Equipment. Such inspection showed (a) that the Cars have been constructed in accordance with the Specifications, all applicable Federal Railroad Administration requirements and all standards recommended by the Association of American Railroads and (b) that there was plainly, distinctly, permanently and conspicuously placed upon each side of each Car a legend on which plainly and conspicuously appear the following words in letters not less than one inch in height:

North American Car Corporation, Chicago, Illinois,
Sub Lessor

First Western Bank and Trust Company, as Agent,
San Francisco, California
Security Owner

and that each side of each Car was plainly and distinctly marked with the Railroad's Road Number set forth above with respect thereto.

Lessor and Lessees confirm that on the aforesaid dates of delivery the Cars were duly accepted by a representative of Lessor and Lessees in accordance with Section 1 of the Lease of Railroad Equipment, and Lessees acknowledge that the Cars are now held by Lessees subject to the terms and conditions of the aforesaid Lease of Railroad Equipment, including the payment of the rentals provided for therein with respect to the Cars to Lessor.

IN WITNESS WHEREOF, Lessor has caused this Supplement to be executed in its corporate name, by one of its officers thereunto duly authorized, and its corporate seal to be hereunto affixed and duly attested, and Lessees have caused this Supplement to be executed on their behalf, on the day and year first above written.

NORTH AMERICAN CAR CORPORATION,

ATTEST:

By _____

Assistant Secretary

GEORGE P. BAKER, RICHARD C. BOND,
JERVIS LANGDON, JR. AND WILLARD
WIRTZ, TRUSTEES OF THE PROPERTY
OF PENN CENTRAL TRANSPORTATION
COMPANY, DEBTOR

WITNESS:

Assistant Secretary

By _____

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

On this _____ day of _____, 1972, before me personally appeared _____, to me personally known who, being by me duly sworn, said that he is a _____ of North American Car Corporation, that the seal affixed to the foregoing instrument is the corporate seal of said Corporation, that said instrument was signed and sealed on behalf of said Corporation this day by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Corporation.

Notary Public

COMMONWEALTH OF PENNSYLVANIA)
) SS
COUNTY OF PHILADELPHIA)

On this _____ day of _____, 1972, before me personally appeared _____, to me personally known, who being by me duly sworn said that he is _____ of the Trustees of the property of Penn Central Transportation Company, Debtor, that the foregoing instrument was signed by him this day on behalf of and by authority of the Trustees of the property of Penn Central Transportation Company, Debtor, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said Trustee.

Notary Public